

ECF CASE  
JUDGE DANIELS

UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF NEW YORK

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**JOE HAND PROMOTIONS, INC., as  
Broadcast Licensee of the June 11, 2005  
Tyson/McBride Program**

Plaintiff,

-against-

RICARDO MARTINEZ, Individually and d/b/a  
LUCKY 7,

Defendants.

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**AFFIDAVIT OF ATTORNEY COSTS  
AND FEES**  
Civil Action No. 07-CV-6907  
HON. GEORGE B. DANIELS

STATE OF NEW YORK :

: SS.:

COUNTY OF ULMSTER :

JULIE COHEN LONSTEIN, being duly sworn, deposes and says:

1. That I am the attorney for Plaintiff, Joe Hand Promotions, Inc., in the above referenced matter and I am admitted to practice in this Court. I am fully familiar with all the facts, circumstances and proceedings heretofore had herein.

2. I make this affidavit in support of Plaintiff's motion for default judgment and damages, costs and fees.

3. Plaintiff's litigation expenses as associated with the formation, pleading and filing of the above captioned matter are as outlined below:

a. Filing Fees - \$ 350.00

b. Service of Process - \$ 100.00

Attached hereto as Exhibit "A," please find invoice from Mountain Support Services, Inc., reflecting the cost of service upon the Defendants.

c. Attorneys Fees - \$856.25

See below

Total Litigation Expenses .....(\$1,306.25)

4. Attorney fees at \$200.00 per hour for attorney time spent and \$75.00 for paralegal time spent are as follows:

<u>Date</u>	<u>Action</u>	<u>(in hours)</u>	<u>Fee</u>	
07/12/2005	Factual research and development	.25	\$50.00	Atty
08/09/2005	Claim Letter issued	.25	\$18.75	Para
01/03/2006	Auditor Certification	.25	\$18.75	Para
07/11/2007	Factual research	.25	\$50.00	Atty
07/25/2007	Complaint drafted, Corporate disclosure	.5	\$100.00	Atty
07/25/2007	Complaint sent to Court	.5	\$37.50	Para
08/08/2007	Arranged Service	.25	\$18.75	Para
08/08/2007	Sent CC of S & C to Chambers	.25	\$18.75	Para
08/17/2007	Review Order	.12	\$25.00	Atty
08/20/2007	Ltr to Defendants with Order	.25	\$18.75	Para
08/31/2007	Reviewed Service	.13	\$25.00	Atty
08/31/2007	Filing/mailing Proofs of Service	.25	\$25.00	Para
10/05/2007	Prepared Request for Default	.5	\$100.00	Atty
10/05/2007	Filed/mailed RFD	.5	\$37.50	Para
10/05/2007	Motion for Continuance	.25	\$50.00	Atty
10/05/2007	Filed and Mailed Motion	.25	\$18.75	Para
10/10/2007	Review Court Order	.12	\$25.00	Atty
10/11/2007	Review Clerk Certificate of Default	.13	\$25.00	Atty
10/15/2007	Draft Motion for Default	1.00	\$200.00	Atty
		<b>Hours</b>	<b>Fee</b>	
		<b>3.25</b>	<b>Atty</b>	<b>\$650.00</b>
		<b>2.75</b>	<b>Para</b>	<b>\$206.25</b>

Total	\$856.25
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5. Plaintiff's counsel's files contain an affidavit attesting to the Defendant's piracy of another event. On June 25, 2005, independent auditor, Richard Rodriguez, entered the Defendant's establishment and observed a portion of the Gatti/Mayweather program being exhibited to approximately 10 individuals in an establishment with an estimated capacity of 75. The auditor's affidavit is attached hereto as Exhibit "B".

6. Plaintiff's counsel's files contain an affidavit attesting to the Defendant's piracy of a third event. On June 10, 2006, independent auditor Jeanette Rodriguez, entered the Defendant's establishment and observed a portion of the Tarver/Hopkins program being exhibited to approximately 8 individuals in an establishment with an estimated capacity of 60. The auditor's affidavit is attached hereto, as Exhibit "C".

6. We respectfully request that judgment be entered in favor of Plaintiff and against the Defendants in the manner stated herein.

**WHEREFORE**, your deponent respectfully requests that this Court in its discretion grant a judgment by default under 605(a) on COUNT I of the Plaintiff's complaint against the Defendants jointly and severally as follows:

**Against, RICARDO MARTINEZ, Individually and d/b/a LUCKY 7,**

- 1) under 605(e)(3)(C)(i)(II) a sum *in the discretion of the Court*, of up to TEN THOUSAND DOLLARS (\$10,000.00)
- 2) and under 605(e)(3)(C)(ii) a sum *in the discretion of the Court*, of up to ONE HUNDRED THOUSAND DOLLARS (\$100,000.00) for enhanced damages for Defendant's willful violation of 605(a)
- 3) and under 605(e)(3)(B)(ii) *in the discretion of the Court*, costs and Attorney fees of ONE THOUSAND THREE HUNDRED SIX DOLLARS AND TWENTY FIVE CENTS (\$1,306.25).

Dated: October 15, 2007  
Ellenville, NY 12428

/s/ Julie Cohen Lonstein  
Julie Cohen Lonstein, Esq.  
Bar Roll No. JL8512  
Lonstein Law Office, P.C.  
Attorneys for Plaintiff  
1 Terrace Hill; PO Box 351  
Ellenville, NY 12428  
Telephone: 845-647-8500  
Facsimile: 845-647-6277

Sworn to before me this 15<sup>TH</sup>  
day of October 2007.

/s/ April Draganchuk  
*April Draganchuk*  
*Notary Public State of New York*  
*Registration No. 4945872*  
*Residing in Ulster County*  
*My Commission Expires Jan. 27, 2011*

Exhibit A

5 of 13

1 Terrace Hill  
P.O. Box 615  
Ellenville, NY 12428

Date	Invoice #
9/20/2007	1111

**Bill To**

**Lonstein Law Office, PC**  
**Wayne D Lonstein**  
**1 Terrace Hill**  
**P.O. Box 351**  
**Ellenville, NY 12428**

Description	Amount
INDIVIDUAL SERVICE JHP v. RICARDO MARTINEZ YOUR FILE #05-7-S04 CV #07-6907	100.00
<b>Total</b>	\$100.00

Exhibit B

PIRACY AFFIDAVIT

STATE OF NEW YORK :

COUNTY OF NEW YORK :

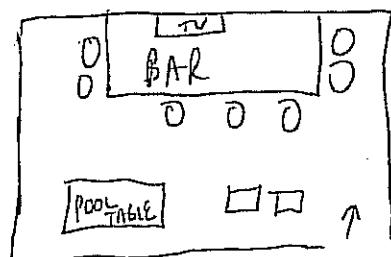
I, Richard Rodriguez, the undersigned, being duly sworn according to law, deposes and says, that on Saturday, June 25, 2005 I observed, the commercial establishment known as Lucky 7, located at 658 Prospect Ave , Bronx, NY at approximately 9:12 PM. This establishment is described as a 3 story building with residential apartments above.

I observed 01 television set showing the event, which is described as follows: One 27 inch color television set located behind the bar at the rear of location. On the television sets, I observed Round 2 of the Calderon/Verde event. Calderon is shown wearing silver trunks w/ red and blue trim. Verde is wearing green trunks. The ropes around the ring are red, white and blue. The fighters are on a blue mat with yellow writing. The clock on the lower right corner reads 2:12 of Round 2.

I was not able to see the cable box or the channel that the television was tuned to.

The inside of the establishment and its internal layout can be described as: A typical licensed establishment that serves alcohol .

DRAW DIAGRAM OF INSIDE OF ESTABLISHMENT:



In my opinion, the approximate capacity of this establishment is 75 people. At the time I was in the establishment, I took three head counts. I counted approximately 10 people on the first count, 10 people on the second count, and 10 people on the third count.

I left the establishment at approximately 9:15 p.m.

I took two (2) pictures of the outside of the above described establishment which are attached hereto and made a part hereof and are intended to substantiate and verify the location of my observations as described herein.

There was not a parking lot adjacent to the establishment.

Dated: July 2, 2005

Signed: Richard Rodriguez  
Print Name: Richard Rodriguez  
Address: 90 Conners Road  
City/State/Zip: Middletown, NY 10941  
Phone/fax: (917)716-3439

State of New York)

) ss.:

County of Bronx )

On the 2 day of July, 2005, before me, the undersigned, a Notary Public in and for said State, personally appeared, Richard Rodriguez, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Olga Rodriguez  
Notary Public

OLGA RODRIGUEZ  
Notary Public, State of New York  
No. 3-6958  
Qualified In Bronx County  
Commission Expires 7/1/2007

Exhibit C

**PIRACY AFFIDAVIT**

**STATE OF** :  
**: SS.:**  
**COUNTY OF** :

I, the undersigned, being duly sworn according to law, deposes and says, that on **Saturday, June 10, 2006**, I entered the commercial establishment known as **Lucky 7**, located at **658 Prospect Ave, Bronx, NY** at approximately 10:25pm. This establishment is described as a 4 story building with numerous apartment(s) on top of the establishment. I did not observe a satellite dish on the premises.

I observed **01** television sets, which are described as: size **36** inch color which is located in the following position within the establishment: behind the bartender on the counter.

On the television sets, I observed the **1st round** of the boxing match between the following undercard fighters **Hernandez vs. Israel Vasquez**.

**Israel Vasquez** was wearing red trunks w/ white stripes and white lettering and **Hernandez** was wearing red trunks w/ white stripes and lettering. I also observed **the following action in the ring:** Vasquez had blonde hair on top of his head. Both fighters were on a blue mat with yellow writing. The clock on the lower right corner showed Round 1 with less than a minute left in the round.

I also observed the following Pay Per View Logo on the screen: On the lower right corner in gold, black and red.

I was not to see the cable box or the channel that the televisions were tuned to.

The inside of the can be described as follows: A typical bar with with one female bartender serving drinks to patrons sitting in bar chairs watching the event.

Piracy Affidavit Page -2-

In my opinion, the approximate capacity of this establishment is **60** people. At the time I was in the establishment, I took three head counts. I counted approximately **8** people on the first count, **8** people on the second count, and **8** people on the third count.

I left the establishment at approximately **10:30**.

I took two (2) pictures of the outside of the above described establishment **on June 17, 2006 and at approximately 7:00am** which are attached hereto and made a part hereof and are intended to substantiate and verify the location of my observations as described herein.

There was not a parking lot adjacent to the establishment.

Dated: 7/11, 2006



Signed: \_\_\_\_\_  
Print Name: Jeanette Rodriguez  
Agency:  
Address: 90 Connors Road  
City/State/Zip: Middletown, NY 10941  
Phone/fax: (914)850-2769  
PI #

State of New York)

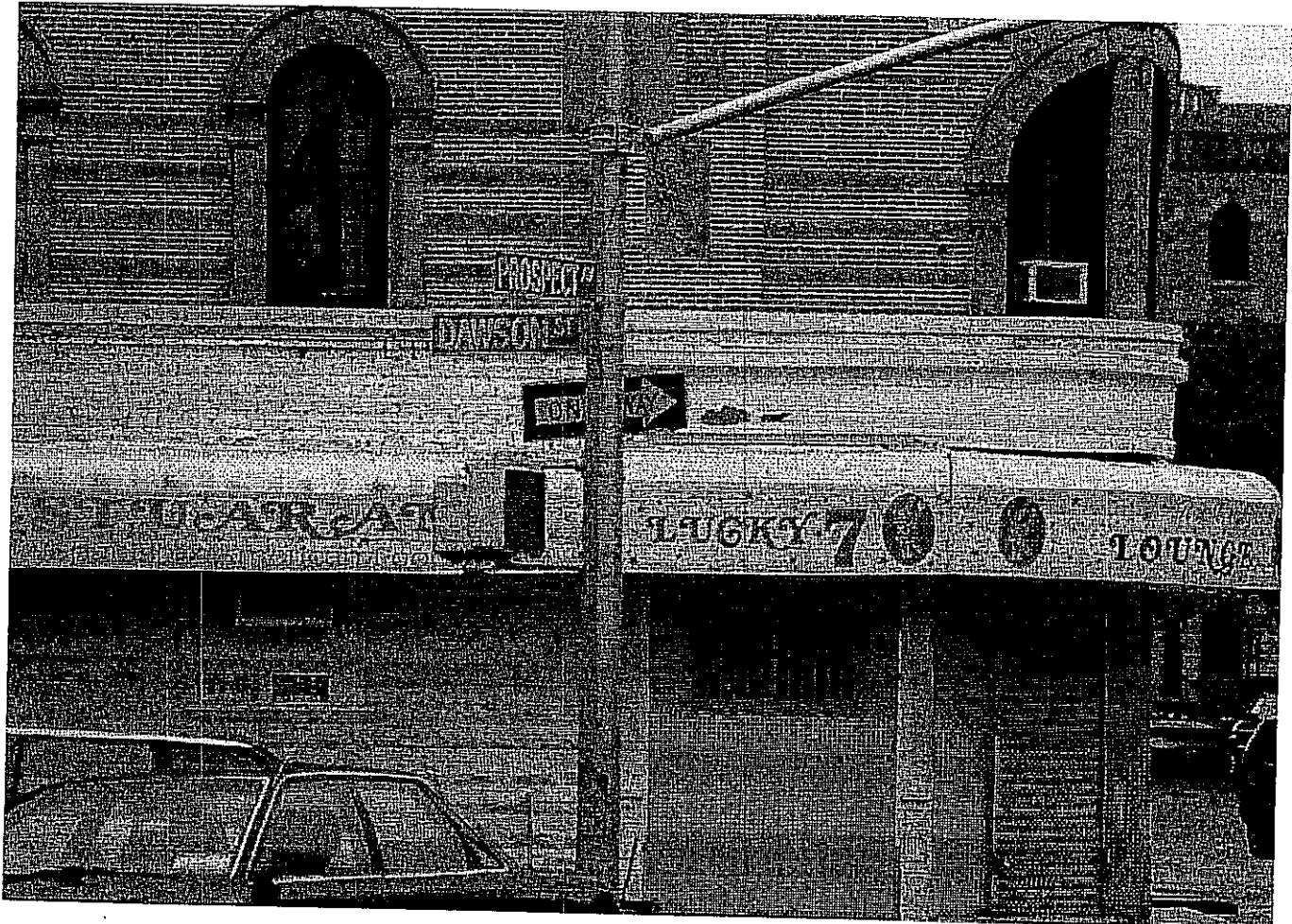
) ss:

County of New York)

On the 11/11 day of July, 2006, before me, the undersigned, a Notary Public in and for said State, personally appeared, Jeanette Rodriguez, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual, or the person upon behalf of which the individual acted, executed the instrument.

Notary Public

YANIRIS Y. COLLAZO  
Notary Public, State of New York  
No. 01CO6106312  
Qualified in Bronx County  
Term Expires March 1, 2008



06-11-502